



JUL 03 2018 June 27, 2018

VIA CERTIFIED MAIL

Jack Pearson
National City Batch Plant
601 W 12th St
National City CA 91950

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Corporation Service Company
Agent for Service of Process
Hanson Aggregates LLC
2710 Gateway Oaks Drive, Suite 150N
Sacramento CA 95833

**Re: Clean Water Act Notice of Intent to Sue/60-Day Notice Letter
Hanson Aggregates' Violations of General Industrial Permit**

Dear Mr. Pearson:

Please accept this letter on behalf of the Coastal Environmental Rights Foundation (CERF) and San Diego Coastkeeper (Coastkeeper) regarding Hanson Aggregate LLC's (Hanson Aggregates) violations of the State Water Resources Control Board Water Quality Order No. 97-03-DWQ, Natural Pollutant Discharge Elimination System (NPDES), General Permit No. CAS000001, and Waste Discharge Requirements for Discharges of Storm Water Associated With Industrial Activities Excluding Construction Activities (General Industrial Permit) and the San Diego Regional Water Quality Control Board (Regional Board)'s Order No. R9-2014-0041, Conditional Waiver of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region (Conditional Waiver).¹

This letter constitutes CERF and Coastkeeper's notice of intent to sue for violations of the Clean Water Act, General Industrial Permit and Conditional Waiver for the National City Batch Plant facility located at 601 W 12th St National City CA 91950 (National City Facility or Facility), as set forth in more detail below.

Section 505(b) of the Clean Water Act requires that sixty (60) days prior to the initiation of a citizen's civil lawsuit in Federal District Court under Section 505(a) of the Act, a citizen must give notice of the violations and the intent to sue to the violator, the Administrator of the U.S. Environmental Protection Agency, the Regional Administrator of the U.S. Environmental Protection Agency for the region in which the violations have occurred, the U.S. Attorney General, and the Chief Administrative Officer for the State in which the violations have occurred (33 U.S.C. § 1365(b)(1)(A)). This letter provides notice of Hanson Aggregates' Clean Water Act violations and CERF and Coastkeeper's intent to sue.

¹ On April 1, 2014, the State Water Resources Control Board adopted Order No. 2014-0057-DWQ, which amends the Industrial General Permit ("New Industrial Permit"). These amendments became effective on July 1, 2015. All references to the General Industrial Permit are to the Permit as it existed at the time of the violations noted herein.

I. Citizen Groups

CERF is a non-profit public benefit corporation organized under the laws of the State of California with its main office in Encinitas, CA. CERF is dedicated to the preservation, protection, and defense of the environment, the wildlife, and the natural resources of the California Coast. CERF's mailing address is 1140 S. Coast Highway 101, Encinitas, CA 92024.

Coastkeeper is a nonprofit organization committed to protecting and restoring the San Diego region's water quality and supply. A member of the international Waterkeeper Alliance, Coastkeeper's main purpose is to preserve, enhance, and protect San Diego's waterways, marine sanctuaries, coastal estuaries, wetlands, and bays from illegal dumping, hazardous spills, toxic discharges, and habitat degradation. Coastkeeper implements this mission through outreach, education, activism, participation in governmental hearings, and prosecuting litigation to ensure that San Diego's beaches, bays, coastal waters and tributary streams and rivers meet all substantive water quality standards guaranteed by Federal, State, and local statutes and regulations. Coastkeeper's office is located at 2825 Dewey Road, Suite 207 in San Diego, California 92106.

Members of CERF and Coastkeeper use and enjoy the waters into which pollutants from Hanson Aggregates' ongoing illegal activities are discharged, namely San Diego Bay and eventually the Pacific Ocean (Receiving Waters). The public and members of CERF and Coastkeeper use these Receiving Waters to fish, boat, kayak, surf, swim, scuba dive, birdwatch, view wildlife, and to engage in scientific studies. The discharge of pollutants by the National City Facility affects and impairs each of these uses. Thus, the interests of CERF and Coastkeeper's members have been, are being, and will continue to be adversely affected by Hanson Aggregates Owners and/or Operators' failure to comply with the Clean Water Act and the General Industrial Permit.

II. Storm Water Pollution and the General Industrial Permit

A. Duty to Comply

Under the Clean Water Act, the discharge of any pollutant to a water of the United States is unlawful except in compliance with certain provisions of the Clean Water Act. (See 33 U.S.C. § 1311 (a)). In California, any person who discharges storm water associated with industrial activity must comply with the terms of the General Industrial Permit in order to lawfully discharge.

The Hanson Aggregates Owners and/or Operators conduct ready-mix concrete production, processing, and shipping operations, including a ready-mix batch plant, truck washing operations, fueling operations, and occasional maintenance activities at the fueling station if needed. (SWPPP, Section C.2.). The Facility SIC Code is 3273, Ready-Mixed Concrete.

Hanson Aggregates enrolled as a discharger subject to the General Industrial Permit on April 25, 2006 for its National City Facility located at 601 W 12th St National City CA 91950. Hanson Aggregates enrolled under the New Industrial Permit on June 22, 2015, WDID Number 9 371020195. Hanson also obtained coverage under the Conditional Waiver, Waiver No. 9 on June 17, 2015.

Pursuant to Section C(1) of the General Industrial Permit, a facility operator must comply with all conditions of the General Industrial Permit. (See New Industrial Permit, §I.A.8. [dischargers must “comply with all requirements, provisions, limitations, and prohibitions in this General Permit.”]). Failure to comply with the General Industrial Permit is a Clean Water Act violation. (General Industrial Permit, § C.1; New Industrial Permit §XXI.A.). Any non-compliance further exposes an owner/operator to an (a) enforcement action; (b) General Industrial Permit termination, revocation and re-issuance, or modification; or (c) denial of a General Industrial Permit renewal application. As an enrollee, Hanson Aggregates has a duty to comply with the General Industrial Permit and New Industrial Permit and is subject to all of the provisions therein.

Likewise, any Discharger proposing to discharge slurries to land must comply with the general waiver conditions in order to meet the provisions contained in Division 7 of the Water Code, section 13269. (Conditional Waiver, Waiver No. 9, p. 43).

B. Failure to Monitor and Report

The Hanson Aggregates Owners and/or Operators have failed to report all monitoring data as required under the Industrial Permit and New Industrial Permit. Sections B(5) and (7) of the Industrial Permit requires dischargers to visually observe and collect samples of storm water discharged from all locations where storm water is discharged. Facility operators, including the Hanson Aggregates Owners and/or Operators, were required to collect samples from at least two qualifying storm events each wet season, including one set of samples during the first storm event of the wet season. Required samples were to be collected by Facility operators from all discharge points and during the first hour of the storm water discharge from the Facility. Hanson Aggregates did not sample any storm events from the 2011-2012 reporting period until the New Industrial Permit went into effect.

Under the New Industrial Permit, Hanson Aggregates is required to sample two qualifying storm events (QSE) during the first half of the reporting period, and two during the latter half. (New Industrial Permit, §XI.B.2). Compliance Group participants are required to sample one QSE during the first half of the reporting period and one during the latter half. (New Industrial Permit, §XI.B.3). All monitoring data must be uploaded to SMARTS within 30 days of obtaining all results for each sampling event. (New Industrial Permit, §XI.B.11.a.).

Though the National City Facility is part of the BMI Compliance Group, the Hanson Aggregates Owners and/or Operators failed to upload the required monitoring data from two sampling events during the 2015-2016 and 2016-2017 reporting years. Thus, the Hanson Aggregates Owners and/or Operators are in violation of the monitoring requirements of the New Industrial Permit. The Hanson Aggregates Owners and/or Operators further failed to sample all discharge points as required. (New Industrial Permit, §XI.B.4.). Additionally, the Hanson Aggregates Owners and/or Operators failed to upload to SMARTS a lead exceedance of 1.84 mg/L listed in a 5-25-2016 monitoring report from a storm water sample taken from DP2 on 5-6-2016.

Further, though the National City Facility SWPPP, General Industrial Permit and New Industrial Permit require monitoring of mercury and zinc, the Hanson Aggregates Owners and/or Operators have consistently failed to sample for mercury and zinc during all sampling events. (See SWPPP, Section M.C., Revision from 3-4-16).

The Hanson Aggregates Owners and/or Operators have also failed to file accurate annual reports as required under the Industrial Permit and New Industrial Permit. Under the Industrial Permit and New Industrial Permit, Facility Owners and/or Operators are required to submit an Annual Report to the Regional Board that includes a summary of visual observations and sampling results, an evaluation of the visual observation and sampling results, the laboratory reports of sample analysis, the annual comprehensive site compliance evaluation report, and an explanation of why a permittee did not implement any activities required. (Industrial Permit, §B.13-14; New Industrial Permit, §XVI.).

The Hanson Aggregates Owners and/or Operators have failed and continue to fail to submit annual reports that comply with the Industrial Permit and New Industrial Permit reporting requirements. For example, in the 2013-2014 Annual Report, the 2014-2015 Annual Report, and the 2016-2017 Annual Report, the Facility Owners and/or Operators certify that: (1) a complete Annual Comprehensive Site Compliance Evaluation was conducted as required by the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to CERF and Coastkeeper indicates that these certifications are erroneous. For example, storm water samples collected from the Facility contain concentrations of pollutants above EPA Benchmarks and WQSSs, thus demonstrating that the Facility BMPs do not adequately address existing potential pollutant sources. Further, the 2016-2017 Annual Report states that, *inter alia*, nitrate, nitrite, phosphorus, and metals such as lead and zinc are not present at the Facility. However, the Facility's contemporaneous SWPPP and monitoring data indicate that all of the above-mentioned pollutants are present and exposed to storm water at the Facility. As discussed herein, the Facility's SWPPPs do not include many elements required by the Storm Water Permit, and thus it is erroneous to certify that the SWPPPs comply with the Storm Water Permit

Additionally, both the 2013-2014 Annual Report and the 2014-2015 Annual Report state that no unauthorized non-storm water discharges had been detected. Also, the 2014-2015 Annual Report states that there is only one discharge location at the Facility. Information available to CERF and Coastkeeper indicates that these certifications are erroneous.

Additionally, the Facility Owners and/or Operators have failed and continue to fail to develop and/or implement a monitoring and reporting program that requires storm water samples be collected from all discharge locations at the Facility. Based on the Facility SWPPPs, Annual Reports, city storm water compliance inspection photographs, and CERF and Coastkeeper's observations, the Facility Owners and/or Operators have never collected storm water samples from all discharge locations at the Facility. While Section B(7)(d) of the 1997 Permit and Section XI(C)(4) of the 2015 Permit allow permittees to reduce the number of locations to be sampled, there is no indication that the Facility Owners and/or Operators have complied with the requirements of Section B(7)(d) of the 1997 Permit or Section XI(C)(4) of the 2015 Permit to justify sampling a reduced number of discharge locations at the Facility. Information available to CERF and Coastkeeper indicates that both driveways into the site are unsampled discharge locations at the Facility – a small drainage area flows towards and out through the northeastern driveway, and the southernmost driveway serves as a point of egress for vehicles that regularly pass and track pollutants throughout the site before they exit the site. City inspection photographs from 3-3-2015 and 3-9-2016 as well as Google Maps satellite photos clearly show extensive ponding water, tracking of contaminated water throughout the Facility, and tracked-out concrete and other particulate debris offsite. Also, the existence of DP2 (and the three stormwater drains leading to it) was not acknowledged in the June 2015 SWPPP, and the Facility did not report any sampling results for discharge from DP2 before 5-

6-2016. The June 2015 SWPPP acknowledges only one discharge point at DP1 in the northwest corner of the facility. City inspection photographs from 3-3-2015 and 3-9-2016 show multiple open storm drains besides the discharge point at DP1. The 3-4-2016 Revised SWPPP acknowledges both DP1 and DP2.

The Hanson Aggregates Owners and/or Operators had numerous opportunities to sample but failed to do so. (See Exhibit A). Every day the Hanson Aggregates Owners and/or Operators failed to adequately monitor the Facility is a separate and distinct violation of the Industrial Permit, New Industrial Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). These violations are ongoing and the Hanson Aggregates Owners and/or Operators will continue to be in violation every day they fail to adequately monitor the Facility. The Hanson Aggregates Owners and/or Operators are thus subject to penalties in accordance with the Industrial Permit – punishable by a minimum of \$37,500 per day of violations prior to November 2, 2015, and \$51,570 per day of violations occurring after November 2, 2015. (33 U.S.C. §1319(d); 40 CFR 19.4; New Industrial Permit, §XXI.Q.1).

C. The National City Facility Discharges Contaminated Storm Water in Violation of the General Industrial Permit

The Hanson Aggregates Owners and/or Operators' monitoring reports indicate consistent exceedances and violations of the General Industrial Permit. Discharge Prohibition A(2) of the General Industrial Permit and New Industrial Permit Sections III.C-D prohibit storm water discharges and authorized non-storm water discharges which cause or threaten to cause pollution, contamination, or nuisance.

Effluent Limitation B(3) of the General Industrial Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve Best Available Technology Economically Achievable ("BAT") for toxic and non-conventional pollutants and Best Conventional Pollutant Control Technology ("BCT") for conventional pollutants. The New Permit includes the same effluent limitation. *See* 2015 Permit, Effluent Limitation V(A).

Information available to CERF and Coastkeeper, including via review of publicly available information and observations, indicates BMPs that achieve BAT/BCT have not been developed and/or implemented at the Facility. Consistent with CERF and Coastkeeper's review of available information and direct observations, the analytical results of storm water sampling at the Facility demonstrate that the Hanson Aggregates Owners and/or Operators have failed and continue to fail to develop and/or implement BAT/BCT and achieve compliance with BAT/BCT standards, as required. Specifically, Facility discharges have exceeded EPA Benchmarks for numerous pollutants. EPA Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit.¹

¹ *See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) Authorization to Discharge Under the National Pollutant Discharge Elimination System, as modified effective February 26, 2009, Fact Sheet at 106; see also, 65 Federal Register 64839 (2000).*

Further, information available to CERF and Coastkeeper indicates that the pollutants associated with the Facility have been and continue to be tracked throughout the entire site, where they accumulate at the storm water discharge points and the driveways leading to W 12th St and McKinley Ave. This results in trucks and vehicles tracking cement, sand, gravel, concrete, O&G, metal particles, and other pollutants off-site.

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) prohibits storm water discharges and authorized non-storm water discharges which cause or contribute to an exceedance of any water quality standards or applicable Basin Plan water quality standards. (See New Industrial Permit Receiving Water Limitations VI.A-C). In addition, Receiving Water Limitation VI.C. of the New Industrial Permit prohibits discharges that contain pollutants in quantities that threaten to cause pollution or a public nuisance.

The California Toxics Rule (“CTR”), 40 C.F.R. 131.38, is an applicable water quality standard. (*Baykeeper v. Kramer Metals, Inc.* (C.D.Cal. 2009) 619 F.Supp.2d 914, 926). “In sum, the CTR is a water quality standard in the General Permit, Receiving Water Limitation C(2). A permittee violates Receiving Water Limitation C(2) when it ‘causes or contributes to an exceedance of’ such a standard, including the CTR.” (*Id.* at 927).

If a discharger violates Water Quality Standards, the General Industrial Permit and the Clean Water Act require that the discharger implement more stringent controls necessary to meet such Water Quality Standards. (General Industrial Permit, Fact Sheet p. viii; 33 U.S.C. § 1311(b)(1)(C); New Industrial Permit, §XX.B.). The Hanson Aggregates Owners and/or Operators have failed to comply with this requirement, routinely violating Water Quality Standards without implementing BMPs to achieve BAT/BCT or revising the Facility’s SWPPP pursuant to General Industrial Permit section (C)(3) and New Industrial Permit Section X.B.1.

As demonstrated by sample data submitted by Hanson Aggregates, from enrollment through the present, the Hanson Aggregates Owners and/or Operators have discharged and continue to discharge storm water containing pollutants at levels in violation of water quality prohibitions and limitations during multiple rain events. The National City Facility’s sampling data reflects numerous discharge violations (see below). Hanson Aggregates’ own sampling data is not subject to impeachment. (*Baykeeper, supra*, 619 F.Supp. 2d at 927, citing *Sierra Club v. Union Oil Co. of Cal.*, (9th Cir. 1987) 813 F.2d 1480, 1492 [“when a permittee’s reports indicate that the permittee has exceeded permit limitations, the permittee may not impeach its own reports by showing sampling error”]).

This data further demonstrates the National City Facility continuously discharges contaminated storm water during rain events which have not been sampled.

No.	Date	Discharge Point	Parameter	Units	Result	Benchmark/ WQO	Benchmark/ NAL
1	5/6/2016	DP2	Iron, Total	mg/L	1.73	0.3 ¹	1
2	5/6/2016	DP2	Lead	mg/L	1.84	0.065 ²	0.262
3	5/6/2016	DP2	Phosphorus, Total (as P)	mg/L	0.106	.1 ¹	2

4	5/6/2016		pH	SU	10.5	Not < 6.5 or > 8.5	Not < 6.0 or > 9.0
5	12/22/2016	DP2	Iron, Total	mg/L	12.9	0.3 ¹	1
6	12/22/2016	DP2	Total Suspended Solids (TSS)	mg/L	128	100 ³	100
7	12/22/2016		pH	SU	10	Not < 6.5 or > 8.5	Not < 6.0 or > 9.0
8	1/9/2018	DP2	Iron, Total	mg/L	8.21	0.3 ¹	1
9	1/9/2018	DP2	Nitrite Plus Nitrate (as N)	mg/L	0.75	0.68 ³	0.68
10	1/9/2018	DP2	Phosphorus, Total (as P)	mg/L	0.23	.1 ¹	2
11	1/9/2018	DP2	Total Suspended Solids (TSS)	mg/L	167	100 ³	100
12	1/9/2018		pH	SU	8.6	Not < 6.5 or > 8.5	Not < 6.0 or > 9.0

¹ Basin Plan Objective for San Diego Bay

² CTR based on 100 mg/L hardness

³ MSGP EPA Benchmark Table 8.J-1, 8.E-1, or 8.C-1

D. Inadequate Storm Water Pollution Prevention Plan

One of the main requirements for the General Industrial Permit is the Storm Water Pollution Prevention Plan (SWPPP). (General Industrial Permit §A; New Industrial Permit §X.). Hanson Aggregates has not developed an adequate SWPPP as required by the General Permit or New Industrial Permit, with many of the required elements noticeably absent from the National City Facility SWPPP. (New Industrial Permit, §X.A.1-10).

For instance, the June 2015 SWPPP fails to demarcate any grade breaks, fails to acknowledge the existence of more than one drainage area, and fails to acknowledge all of the storm water discharge points at the Facility, only acknowledging one discharge point at DP1 in the northwest corner of the facility. City inspection photographs from 3-3-2015 and 3-9-2016 show multiple open storm drains besides the discharge point at DP1 as well as evidence of track-out from the southern driveway. Information available to CERF and Coastkeeper indicates the existence of a grade break and an additional small drainage area flowing towards and out through the northeast driveway. Without any reference to a change in process and without acknowledging the 2015 SWPPP's deficiency, the Hanson Aggregates Owners and/or Operators revised the Facility SWPPP on 3-4-2016 to acknowledge both DP1 and DP2. Despite acknowledging two discharge points, though, the revised SWPPP and SWPPP map still fail to demarcate any grade breaks or acknowledge the existence of more than one drainage area.

The latest SWPPP also fails to account for the numerous and repeated violations identified by Hanson Aggregates' monitoring data – ensuring these violations continue. The SWPPP is therefore inadequate. (See New Industrial Permit §I.E.37. [“Compliance with water quality standards may, in some cases, require Dischargers to implement controls that are more protective than controls implemented solely to comply with the technology-based requirements in this General Permit.”]).

Every day the Hanson Aggregates Owners and/or Operators operate the Facility without an adequate SWPPP is a separate and distinct violation of the General Industrial Permit, New Industrial Permit, and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Hanson Aggregates Owners

and/or Operators have been in daily and continuous violation of the General Industrial Permit and New Industrial Permit since at least May 29, 2013. These violations are ongoing, and the Hanson Aggregates Owners and/or Operators will continue to be in violation every day they fail provide an adequate SWPPP for the Facility. Thus, the Hanson Aggregates Owners and/or Operators are liable for civil penalties of up to \$37,500 per day of violations prior to November 2, 2015, and \$51,570 per day of violations occurring after November 2, 2015. (33 U.S.C. §1319(d); 40 CFR 19.4; New Industrial Permit, §XXI.Q.1).

E. Conditional Waiver Non-Compliance

The Region 9 Conditional Waiver, Waiver No. 9 requires dischargers of slurries to enroll in and be in compliance with the General Industrial Permit. (Conditional Waiver No. 9, Section D.1., p. 44). Waiver No. 9 requires dischargers of slurries to “manage their wastes in a manner that protects beneficial uses, and prevent nuisance by implementing management measures (MMs) and best management practices (BMPs) (Conditional Waiver No. 9, Section G.3.). Dischargers must locate storage areas and/or sumps in such a way that “prevent[s] conditions of pollution or nuisance, of any surface water body or municipal water well (Conditional Waiver No. 9, Section B.2.c.).

Hanson Aggregates enrolled under the Conditional Waiver, Waiver No. 9 on June 17, 2015. According to the Facility SWPPP, the Hanson Aggregates Owners and/or Operators use a “reclaimer process[] to return concrete and interior truck wash water...Most paste produced by the reclaimer is processed by an Alar system to remove water. Reclaimer and Alar water is pumped to a water tank, and then reused for additional interior truck washing or to make concrete.” (SWPPP, Section F.4.). According to the Facility SWPPP map and information available to CERF Coastkeeper, the alar and paste storage areas are exposed to rain and discharge contaminated storm water runoff that contributes to conditions of pollution or nuisance, in violation of the Conditional Waiver, Waiver No. 9. Also, some of the contaminated previously-stored water derived from slurries is used for interior and exterior truck washing activities that take place at multiple locations throughout the Facility. (SWPPP, Section J.; SWPPP map). The Facility SWPPP acknowledges in Table L that interior and exterior truck washing and handling of return concrete is a potential pollution source of TSS, oil and grease, pH, and iron. As reflected above, past sampling from Discharge Point 2 reflects significantly elevated levels of iron, lead, phosphorus, TSS, nitrate + nitrite, and high pH.

The Receiving Waters and HUC-10 downstream waters are impaired for numerous constituents. Hanson Aggregates’ contribution to these impairments constitutes a violation of Waiver No. 9. Pollutants like TSS, oil and grease, TSS, lead, iron, phosphorus, and pH are present in Hanson Aggregates’ storm water discharge, adversely impacting the quality and beneficial uses of receiving waters. As reflected in the Facility’s SWPPP, the Facility’s drainage areas receive water that has previously passed through storage areas, ponds, and sumps. As a result of the inadequate design of these storage areas, ponds, and sumps, discharged water contributes to conditions of pollution or nuisance in Receiving Waters and HUC-10 downstream waters in violation of Conditional Waiver No. 9, Section B.2.c.

F. Inadequate Level 1 and Level 2 ERA Reports

The Facility entered Level 1 status for iron in 2016 as a result of exceedances in the 2015-2016 reporting year. The Facility entered Level 1 status for TSS in 2017 as a result of exceedances in the 2016-2017 reporting year. The 11-30-2016 Consolidated Level 1 ERA Report for iron identifies that sand is the main contributor to iron exceedances, identifies that dissolved iron represents 80% of the total iron

(rendering ineffective most common filtration BMPs like straw wattles, hay bales, and sand bags), and generally “recommends BMPs that limit exposure of aggregate and CMB to precipitation as well as storm water containment and discharge reduction BMPs.” However, the Consolidated Level 1 ERA Report fails to consider more advanced filtration BMPs that might filter out dissolved iron, and also fails to explicate site-specific recommendations for how the Facility might achieve greater storm water containment and exposure and discharge reductions. Because the Facility’s Level 1 Technical Report for iron was inadequate, the Facility is now in Level 2 status for iron, and the Facility has registered continued iron exceedances during every QSE it has sampled – most recently on 01-09-2018. Because the Facility’s Level 1 Technical Report for TSS was inadequate, the Facility has registered continued TSS exceedances during the 2017-2018 reporting year. The revised 12-15-2017 Consolidated Level 1 ERA Report and the Facility 12-14-2017 Level 2 ERA Report recommend storm drain inlets at the facility leading to DP2 be closed off in order to “eliminate most storm water discharges from the facility”. Information available to CERF and Coastkeeper indicates that sand and gravel aggregate stockpiles, alar, and paste are still present and exposed to storm water at the Facility, that ponding water and sheet flow result in continued tracking of iron- and TSS-contaminated storm water out of the southern driveway, and that closing off the storm drains leading to DP2 has not eliminated storm water discharges from the Facility. None of the ERA Reports have acknowledged the slight runoff towards the northeastern driveway or the track-out of contaminated storm water from the southern driveway, nor have they proposed additional structural BMPs, such as trench drains, to address this runoff and track-out.

Every day the Hanson Aggregates Owners and/or Operators fail to submit adequate Level 1 and Level 2 ERA Reports is a separate and distinct violation of the Industrial Permit and Section 301(a) of the Clean Water Act. (33 U.S.C. § 1311(a)). These violations are ongoing and the Hanson Aggregates Owners and/or Operators will continue to be in violation every day they fail to revise and submit appropriate Level 1 and Level 2 ERA Reports.

G. Unauthorized Non-Storm Water Discharges

Except as authorized by Section IV of the New Industrial Permit, permittees are prohibited from discharging materials other than storm water (non-storm water discharges) either directly or indirectly to waters of the United States. (New Industrial Permit, §III.B.; IV.A-B).

Information available to CERF and Coastkeeper indicates that unauthorized non-storm water discharges occur at the Facility due to inadequate BMP development and/or implementation necessary to prevent these discharges. For example, unauthorized non-storm water discharges occur from the Facility’s washing and cleaning and dust suppression activities. The Hanson Aggregates Owners and/or Operators conduct these activities without BMPs to prevent related non-storm water discharges. Non-storm water discharges resulting from washing and cleaning and dust suppression activities do not qualify as authorized non-storm water discharges in Section IV.A. of the Permit without implementation of BMPs and if in violation of a Regional permit. Notably, the San Diego Regional Municipal Separate Storm Sewer System (MS4) Permit Section E.2.a. prohibits the discharge of unauthorized non-storm water as an illicit discharge. Wash water is not listed among the authorized non-storm water discharges. (MS4 Permit, Section E.2.a.(3),(4)).

These discharge violations are ongoing and will continue until the Hanson Aggregates Owners and/or Operators develop and implement BMPs that prevent prohibited non-storm water discharges or obtain separate NPDES permit coverage. Each time the Hanson Aggregates Owners and/or Operators

discharge prohibited non-storm water in violation of Discharge Prohibition III.B. of the Permit is a separate and distinct violation of the Storm Water Permit and section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). CERF and Coastkeeper will update the number and dates of violations when additional information becomes available. The Hanson Aggregates Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since May 29, 2013.

III. Remedies

Upon expiration of the 60-day period, CERF and Coastkeeper will file a citizen suit under Section 505(a) of the Clean Water Act for the above-referenced violations. During the 60-day notice period, however, CERF and Coastkeeper are willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, it is suggested that you initiate those discussions immediately. If good faith negotiations are not being made, at the close of the 60-day notice period, CERF and Coastkeeper will move forward expeditiously with litigation.

Hanson Aggregates must develop and implement an updated SWPPP, install BMPs to address the numerous and ongoing water quality violations, and implement a robust monitoring and reporting plan. Should the Hanson Aggregates Owners and/or Operators fail to do so, CERF and Coastkeeper will file an action against Hanson Aggregates for its prior, current, and anticipated violations of the Clean Water Act. CERF and Coastkeeper's action will seek all remedies available under the Clean Water Act § 1365(a)(d). CERF and Coastkeeper will seek the maximum penalty available under the law which is \$37,500 per day for violations prior to November 2, 2015, and \$51,570 per day for violations occurring after November 2, 2015. (33 U.S.C. §1319(d); 40 CFR 19.4; New Industrial Permit, §XXI.Q.1). CERF and Coastkeeper may further seek a court order to prevent Hanson Aggregates from discharging pollutants.

Lastly, section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), permits prevailing parties to recover costs, including attorneys' and experts' fees. CERF and Coastkeeper will seek to recover all of their costs and fees pursuant to section 505(d).

IV. Conclusion

CERF and Coastkeeper have retained legal counsel to represent it in this matter. Please direct all communications to CERF and Coastkeeper's legal counsel:

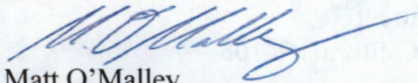
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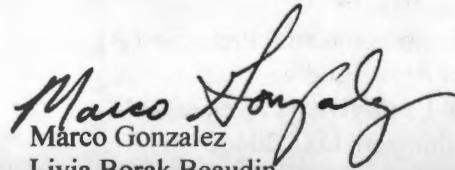
Tel: (619) 758-7743

If you wish to pursue settlement discussions in the absence of litigation, please contact Coast Law Group LLP and San Diego Coastkeeper immediately.

Sincerely,



Matt O'Malley
Josh Brooks
Attorneys for San Diego Coastkeeper



Marco Gonzalez
Livia Borak Beaudin
Attorneys for Coastal Environmental
Rights Foundation

SERVICE LIST

VIA U.S. MAIL

Scott Pruitt
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Alexis Strauss
Acting Regional Administrator
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, California 94105

Eileen Sobeck
Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0110

David W. Gibson
Executive Officer
San Diego Regional Water Quality Control Board
2375 Northside Drive, Suite 100
San Diego, California 92108

Aaron Lund
Hanson Aggregates LLC
PO Box 639069
San Diego CA 92163

Exhibit A. Precipitation Data

STATION	NAME	LATITUDE	LONGITUDE	ELEVATION	DATE	PRCP
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/23/2012	0.27
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/7/2012	0.29
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/14/2012	0.22
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/15/2012	0.26
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/27/2012	0.37
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/17/2012	0.35
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/18/2012	0.13
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/19/2012	0.13
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/25/2012	0.28
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	4/11/2012	0.12
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	4/13/2012	0.28
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	4/25/2012	0.36
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	4/26/2012	0.1
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	10/12/2012	0.45
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	10/21/2012	0.14
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	11/8/2012	0.14
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	11/30/2012	0.1
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/13/2012	1.56
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/15/2012	0.12
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/24/2012	0.12
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/6/2013	0.16
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/25/2013	0.85
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/26/2013	0.15
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/8/2013	0.27
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/19/2013	0.26
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/7/2013	0.18
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/8/2013	1.04
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	5/6/2013	0.18
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	10/29/2013	0.16
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	11/21/2013	0.97
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	11/22/2013	0.49
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/7/2013	0.1
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/19/2013	0.34
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/6/2014	0.2
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/27/2014	0.14
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/28/2014	0.51
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/1/2014	1.01
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/2/2014	0.24
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	4/2/2014	0.22
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	4/26/2014	0.16
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	11/1/2014	0.25
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/2/2014	0.42
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/3/2014	0.27
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/4/2014	1.84
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/12/2014	1.05
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/16/2014	0.43
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/17/2014	0.41
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/11/2015	0.2
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/12/2015	0.17
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/22/2015	0.14
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/28/2015	0.1
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/1/2015	0.68

Exhibit A. Precipitation Data

USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/2/2015	0.25
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	5/8/2015	0.46
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	5/14/2015	1.63
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	5/15/2015	0.21
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	7/18/2015	1.03
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	7/19/2015	0.66
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	9/15/2015	1.21
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	10/4/2015	0.14
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	10/5/2015	0.27
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	11/3/2015	1.09
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	11/27/2015	0.18
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/11/2015	0.19
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/13/2015	0.16
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/19/2015	0.11
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/22/2015	0.17
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/28/2015	0.19
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/4/2016	0.14
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/5/2016	1.65
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/6/2016	0.61
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/7/2016	0.56
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/31/2016	0.14
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/6/2016	0.1
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/7/2016	0.45
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/11/2016	0.15
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	4/7/2016	0.31
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	4/10/2016	0.17
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	5/6/2016	0.34
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	9/20/2016	0.15
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	9/21/2016	0.16
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	11/20/2016	0.11
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	11/21/2016	0.12
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	11/26/2016	0.11
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	11/27/2016	0.17
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	11/28/2016	0.1
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/15/2016	0.12
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/16/2016	1.2
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/21/2016	0.54
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/22/2016	0.56
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/24/2016	0.6
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/30/2016	0.51
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	12/31/2016	0.68
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/5/2017	0.16
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/9/2017	0.18
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/12/2017	0.32
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/13/2017	0.35
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/19/2017	0.19
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/20/2017	1.11
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/22/2017	0.35
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/23/2017	0.22
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/7/2017	0.11
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/17/2017	1.07
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/27/2017	2.34
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	5/6/2017	0.1

Exhibit A. Precipitation Data

USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	5/7/2017	0.79
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/8/2018	0.16
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	1/9/2018	1.57
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	2/27/2018	0.32
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/3/2018	0.23
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/10/2018	0.36
USW00023188	SAN DIEGO INTERNATIONAL AIRPORT, CA US	32.7336	-117.1831	4.6	3/17/2018	0.27